

EXHIBIT M

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:	Case No.
RESIDENTIAL CAPITAL, LLC, et. al,	12-12020 (MG)
Debtors.	

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VIDEOTAPE DEPOSITION OF THOMAS MARANO

New York, New York

November 12, 2012

9:56 a.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27645

1 THOMAS MARANO

2 Q. Did Mr. Mack and Mr. Ilany
3 inform you of their discussions with
4 Mr. Carpenter concerning discussions about
5 an AFI/ResCap settlement of claims?

6 A. While they were working on it,
7 they never gave me specific details. They
8 would tell me they had meetings and were
9 having phone calls, but I never got any of
10 the real details of what they discussed.

11 Q. Are you saying that you didn't
12 learn the details or the terms of the deal
13 until one was struck?

14 A. I was informed of what Ally was
15 willing to take at a presentation, but the
16 to and fro for the many weeks beforehand
17 that they were negotiating, I was really
18 not involved in that.

19 Q. So what I'm saying is, when did
20 you first learn of the terms that had been
21 negotiated between AFI and ResCap
22 concerning the settlement between the two?

23 A. When the outside directors got
24 to the point where they felt they got the
25 best deal they could --

1 THOMAS MARANO

2 Q. When was that?

3 A. -- I was informed.

4 I don't recall the day. I'm
5 sure there's a board meeting for it.

6 Q. Was it in or about May of this
7 year?

8 A. I would say it would be
9 potentially April or May. Certainly prior
10 to the bankruptcy.

11 Q. Did you ever express your view
12 to Mr. Carpenter, or anyone else at AFI,
13 that AFI should make a higher payment to
14 ResCap for a settlement of claims between
15 the two?

16 MR. PRINCI: Objection as to
17 form.

18 A. No matter what number Michael
19 Carpenter offered, I always asked for
20 more, including as it relates to this.
21 Always asked for more.

22 Q. In connection with a settlement
23 of claims by ResCap against AFI, what did
24 you ask him for?

25 A. Because I didn't do the

1 THOMAS MARANO

2 negotiation, I didn't ask him, you know,
3 for this specific number. So I can't -- I
4 just don't know.

5 Q. I thought you testified a minute
6 ago that you always asked him for more.

7 Are you saying just generally?

8 A. Whenever I negotiated anything
9 with Michael, I always asked for more.

10 Q. Okay. So are you saying that
11 you never had occasion to discuss with
12 Mr. Carpenter the amount that AFI was
13 willing to pay or that you thought should
14 be paid by AFI to ResCap to settle claims?

15 A. Not in the context of
16 negotiating the deal. But I had expressed
17 numbers that I felt were, you know, higher
18 than we were able to get.

19 Q. What numbers did you express?

20 A. Now, my general view was it
21 probably would take something close to
22 \$2 billion to settle this.

23 Q. And you expressed that to
24 Mr. Carpenter?

25 A. I expressed that to

1 THOMAS MARANO

2 Mr. Carpenter, definitely.

3 Q. Did you express it to other
4 members of the ResCap board?

5 A. Yes.

6 Q. Did you express it to all of the
7 other members of the ResCap board?

8 A. I was fairly vocal in what I
9 thought it would take to get a deal done.
10 My view is it would take a couple billion
11 dollars, that no one was going to do a
12 deal for 750.

13 Q. And during what period of time
14 or over what period of time did you
15 advocate for a number in the range of
16 \$2 billion from AFI?

17 A. I wouldn't use the phrase
18 "advocate." I would say expressed my view
19 of how to get a settlement --

20 Q. Fine.

21 A. -- or, pardon me, a deal. And
22 in that context, I would say, you know,
23 over the spring of this year.

24 MR. KAUFMAN: Let's mark as the
25 next exhibit, Ally Financial, Inc.'s

1 THOMAS MARANO

2 10-Q for the first quarter 2012.

3 (9019 Exhibit 54, Ally
4 Financial, Inc.'s 10-Q for first
5 quarter 2012, marked for
6 identification, as of this date.)

7 MR. KAUFMAN: Just for the
8 record, this document is an as-filed
9 version. It does not have Bates
10 numbers. This is the one that was
11 pulled off the actual filing.

12 Q. Let me show you what we have
13 marked as Exhibit 54.

14 Do you recognize this as the
15 form 10-Q filed by AFI for the quarter
16 ending March 31, 2012?

17 A. Yes.

18 Q. And am I correct that the 10-Q
19 was filed on April 27, 2012, with the SEC?

20 A. Yes.

21 Q. And am I correct that the 10-Q
22 presented consolidated statements for AFI
23 and its subsidiaries, including ResCap?

24 A. Yes.

25 Q. Did you participate in the

1 THOMAS MARANO

2 preparation of the 10-Q?

3 A. It was prepared by
4 professionals; however, I did, I did
5 review it.

6 Q. You reviewed it before it was
7 filed, right?

8 A. Yes.

9 Q. Did you believe its contents to
10 be true and accurate at the time it was
11 filed?

12 A. At the time it was filed, yes, I
13 did believe the contents were true and
14 accurate.

15 Q. Let me direct your attention to
16 page 73. There is a section describing
17 the company's private label
18 securitizations and its possible exposure
19 to liability, as a result of those
20 activities.

21 Do you see that?

22 A. Yes.

23 Q. Under the heading Potential
24 Losses, the 10-Q stated, "We currently
25 estimate that ResCap's reasonably possible

1 THOMAS MARANO

2 and answered.

3 You can answer again.

4 A. It's my understanding that Kathy
5 Patrick had assembled a large enough group
6 to achieve her objective and it was in the
7 interest of the estate to settle.

8 Q. That wasn't my question. I want
9 to know whether you understood when you
10 were asked to approve the settlement on
11 May 9th, that Ms. Patrick and her clients
12 had the power to force the trustees to
13 act?

14 MR. PRINCI: Objection. Asked
15 and answered. Last go round on this
16 one.

17 Do it again.

18 A. My understanding was she had
19 enough people to get done what she wanted
20 to get done.

21 MR. PRINCI: Can we take a
22 break?

23 MR. KAUFMAN: You want a break?

24 MR. PRINCI: Yes, I do.

25 MR. KAUFMAN: Then you can have

1 THOMAS MARANO

2 one.

3 MR. PRINCI: Thank you.

4 THE VIDEOGRAPHER: The time is
5 2:56 p.m. and we are off the record.

6 (Whereupon, there is a recess in
7 the proceedings.)

8 THE VIDEOGRAPHER: The time is
9 3:09 p.m., and we are back on the
10 record.

11 MR. KAUFMAN: Let's mark as the
12 next exhibit the minutes of a special
13 meeting of the board on May 9, 2012,
14 Bates numbers 54006 to 54007.

15 (9019 Exhibit 61, minutes of
16 5/9/12 special meeting of board, Bates
17 numbers 54006 to 54007, marked for
18 identification, as of this date.)

19 Q. Showing you what we have just
20 marked, Mr. Marano, are these the minutes
21 of the board meeting on May 9, 2012?

22 A. Yes, these appear to be the
23 minutes.

24 Q. And was the meeting held by
25 telephone?

1 THOMAS MARANO

2 A. I have to rely on the minutes.

3 I can't recall.

4 The minutes suggest that it was
5 held by telephone.

6 Q. Do the minutes accurately
7 reflect what occurred at the May 9th
8 meeting?

9 A. Yes.

10 Q. The minutes say that one of the
11 board's members, Mr. Ilany, was unable to
12 attend.

13 Why couldn't he attend?

14 A. I'm -- I don't know why he was
15 not there. I don't remember.

16 Q. The minutes also reflect that
17 two matters were addressed at the meeting,
18 the proposed RMBS settlements and the
19 Project Bounce update; is that correct?

20 A. Yes.

21 Q. How much time was devoted to
22 each of those matters?

23 A. There was, you know, there was a
24 considerable amount of time, you know,
25 dedicated to both matters. I can't tell

1 THOMAS MARANO

2 you within the hour that the board meeting
3 transpired, whether it was 50/50; but
4 there was, you know, a fair amount of
5 time.

6 Q. The entire meeting, according to
7 the minutes, lasted an hour, correct?

8 A. Correct. I just can't tell you
9 whether it was 30 and 30. I don't recall.

10 Q. Is it your best recollection
11 that it was split approximately equally
12 between the two matters?

13 A. I don't recall how much time was
14 spent on each matter.

15 Q. In the next-to-last paragraph on
16 the first page, the minutes say that
17 during the discussion you requested that a
18 report with separate line items
19 identifying the different settlement
20 amounts be prepared to provide the board
21 with additional details on the
22 settlements.

23 Do you see that?

24 A. Yes.

25 Q. Why did you want that

1 THOMAS MARANO

2 information?

3 A. For purposes of clarity.

4 Q. Clarifying what?

5 A. To help to make sure the board
6 understood, you know, the components that
7 made up the rep and warrant and PLS
8 settlement.

9 Q. Was that report provided during
10 the course of the hour meeting?

11 A. I do not believe it was.

12 Q. Why didn't you adjourn the
13 meeting until you got the information you
14 were looking for?

15 A. I think -- my recollection of
16 this meeting is that we had enough of a
17 basis to determine whether or not the
18 settlement agreement was fair, and this
19 was just clarifying details.

20 Q. Was there a written presentation
21 that accompanied the May 9th meeting?

22 A. I don't recall if there was a
23 presentation.

24 Q. Wasn't it the two-page document
25 we looked at before that you got --

1 THOMAS MARANO

2 A. Oh, yes.

3 Q. -- just about 20 minutes before?

4 A. Yes. This is the same meeting.

5 Q. So that's the information that
6 the board was looking at, when it was
7 considering, on May 9th, whether to
8 approve the settlement?

9 A. That is -- that is correct.

10 Q. Was there anything other than
11 that two-page presentation the board was
12 looking at, when it was asked to consider
13 whether to approve the settlement?

14 A. Not that I recall.

15 Q. On the second page of the
16 minutes regarding the Project Bounce
17 update, it says that you and Mr. Nashelsky
18 briefed the board on the status of various
19 matters related to a potential ResCap
20 Chapter 11 filing, including but not
21 limited to the AFI settlement agreement.

22 Do you see that?

23 A. Yes.

24 Q. And that refers to the
25 settlement agreement between ResCap and

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releases to AFI as well as full releases
from ResCap, right?

A. That's right.

Q. Tell me how you thought the
component of the settlement securing
third-party releases to, for AF -- for AFI
benefitted ResCap.

MR. PRINCI: Just a
clarification. ResCap referring now
to what company?

Earlier in the deposition I
asked you if ResCap would be presumed
to be defined to represent one
company, and you said no.

MR. KAUFMAN: Stop talking.

MR. PRINCI: So I just want to
know what it refers to.

MR. KAUFMAN: Stop talking.

MR. PRINCI: I need to know the
clarification; otherwise, I can't have
him answer.

MR. KAUFMAN: Stop talking.

MR. PRINCI: Can you answer that
question, please.

1 THOMAS MARANO

2 MR. KAUFMAN: Stop talking.

3 DIR MR. PRINCI: Don't answer the
4 question.

5 Q. From which companies did AFI get
6 releases?

7 All the debtors, right?

8 A. Yeah, all of them.

9 Q. How did the component of the
10 settlement securing third-party releases,
11 third-party releases for AFI, benefit
12 ResCap?

13 MR. PRINCI: By ResCap, you mean
14 all the companies?

15 MR. KAUFMAN: Yes.

16 MR. PRINCI: Okay.

17 A. We would not have been able to
18 get the settlement, unless Ally received
19 something in return. Ally paid good money
20 to get the settlement.

21 We also knew there would be an
22 opportunity to challenge that settlement
23 and to have another bite at the apple.

24 Q. What did you understand the
25 opportunity to be to challenge the

1 THOMAS MARANO

2 settlement between ResCap and Ally?

3 A. We were going to go before a
4 judge, and if the judge wasn't comfortable
5 with the arrangement, he would absolutely
6 have us try and revise it or come to a new
7 agreement.

8 Q. And was that a consideration of
9 yours and the board, in approving the
10 settlement?

11 A. We knew we got the best deal we
12 could get from Ally at the time we filed
13 or were about to file. And we knew that
14 there would be an opportunity for it to be
15 reviewed and challenged.

16 But we felt like we had gotten a
17 very good deal for all parties and helped
18 preserve value for the platform.

19 Q. Okay. Mr. Marano, you did
20 understand from your advisors, didn't you,
21 that ResCap had potential claims against
22 AFI for the full amount of whatever
23 settlement amount you might agree to pay
24 to Ms. Patrick and other creditors, right?

25 A. We knew -- we certainly knew we

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had that possibility. We felt at the time this was the best deal we could get, and it was reasonably fair.

Q. You didn't believe it was reasonably fair. You told us before you thought the number should have been \$2 billion, didn't you?

MR. PRINCI: Objection, misstates his testimony. That's not what he testified to.

A. With respect to my comment on the \$2 billion, my view was, what would it take to get all of the investors or vulture funds in the deal to go away. That was based on 30 years of Wall Street. That's a number of what I think it would take to buy peace. Doesn't mean it isn't fair.

Q. Isn't that what you told Carpenter and what you said you repeatedly told others, that that was the right number?

MR. PRINCI: Misstates his testimony. Objection.

1 THOMAS MARANO

2 A. What I told Carpenter was it
3 would take a lot more than 750 million to
4 get a quick resolution. Doesn't mean it
5 was fair for it to be a 2 billion charge
6 to Ally; 750 was fair. But people are
7 going to want more.

8 Q. What made you think that 750 was
9 the top dollar you were going to be able
10 to get from AFI?

11 A. The -- I relied on the
12 independent directors who, you know, spent
13 weeks, if not months, negotiating with
14 Carpenter; and they told us this was the
15 best deal they could get. And we looked
16 at what the legal professionals said were
17 valid claims, and we concluded at the
18 board meeting this was fair.

19 Q. Based on a two-page presentation
20 you got 22 minutes before, in an hour
21 meeting?

22 MR. PRINCI: Objection, that's
23 just argumentative. Is there a
24 question? Excuse me, is there a
25 question?

1 THOMAS MARANO

2 form.

3 A. You know, I believe what this is
4 saying and -- 8.02 basically releases --
5 it says that the financial guarantors are
6 not released by the waivers in Article 7.

7 Q. I see you are reading the
8 agreement. I don't want to interrupt. Is
9 that your answer?

10 A. Yes.

11 Q. So do you have an understanding
12 as to whether if the settlement agreement
13 that's Exhibit 58 becomes, is approved by
14 the court and becomes effective that
15 financial guarantee providers like MBIA
16 still will have claims to pursue against
17 the debtors?

18 MR. PRINCI: Objection, the
19 document speaks for itself but you can
20 answer to the extent you --

21 A. I believe you can file your own
22 claim.

23 Q. Do you have an understanding as
24 to what types of claims financial
25 guarantee providers like MBIA could file?

1 THOMAS MARANO

2 A. I can't tell you the nuances of
3 the claims because I'm not a lawyer.

4 Q. What is your understanding as to
5 why section 8.02 of the settlement
6 agreement was included in the RMBS
7 settlement?

8 A. I believe that Kathy Patrick had
9 not actually signed up the monolines as I
10 refer to them so the MBIA's and the FGICs
11 and this way you had the -- or the
12 monolines had flexibility.

13 Q. Let's talk about another
14 provision in Exhibit 58, the settlement
15 agreement. Are you aware that pursuant to
16 the settlement agreement if it gets
17 approved and it is effective that counsel
18 for the institutional -- the RMBS
19 institutional investors will have their
20 fees paid by the debtors?

21 A. Say that last part again.

22 MS. PATRICK: Objection, form.

23 Q. Let me restate the question.
24 Are you aware that if the RMBS settlement
25 agreement is approved and becomes a factor

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that counsel for the institutional
investors will have their fees paid by the
debtors?

MS. PATRICK: Objection to form.

MR. PRINCI: Objection to form.

A. Yeah. I believe that the fees
will be paid, yes.

Q. Do you have an understanding as
to the amount of those fees that would be
paid by the debtors?

A. I don't recall. And it may be
in the document. I just don't recall.

Q. Okay. When the -- I think you
previously discussed the May 9th board
meeting at which the settlement agreement
was considered. Was there any discussion
at that meeting regarding the payment of
the institutional investors' counsel fees?

A. I don't recall if that was a
matter of discussion at the board meeting.

Q. Okay. Have you or anyone else
on behalf of the debtors evaluated the
reasonableness of the fees that would be
paid to counsel to the institutional

1 THOMAS MARANO

2 investors pursuant to the settlement
3 agreement?

4 MS. PATRICK: Objection to form.

5 A. I have not looked at the
6 reasonableness. I'm not -- again, I don't
7 recall that I even knew what that number
8 was.

9 Q. Are you aware whether anyone on
10 behalf of the debtors has requested either
11 bills or time sheets from counsel to the
12 RMBS investors to substantiate fees that
13 will be paid to them under the settlement
14 agreement?

15 MR. PRINCI: Objection to form.

16 MS. PATRICK: Same objection.

17 A. I'm not the best person to
18 answer that. My chief financial officer
19 keeps track of all that information. If
20 we received it, he'll have it.

21 Q. Okay. Is that -- that's
22 Mr. Whitlinger?

23 A. Whitlinger.

24 Q. Okay. Whitlinger. I'm sorry.

25 Give me one moment.

1 THOMAS MARANO

2 MS. BAGBY: I think that's all

3 we have. Thank you very much.

4 EXAMINATION BY

5 MR. SHORE:

6 Q. Good afternoon, sir. I'm Chris
7 Shore from White & Case on behalf of the
8 junior secured notes. I really have two
9 short pages of questions. First of all,
10 do you hold a position with Residential
11 Funding Company, LLC?

12 A. No.

13 Q. And do you hold a position with
14 GMAC Mortgage, LLC?

15 A. No.

16 Q. I want to focus on the board
17 meetings with respect to the settlement,
18 one of which was talked about, one of
19 which wasn't. But first, yes or no, were
20 you advised at any time in your capacity
21 as an officer or director of Residential
22 Capital, LLC as to any fiduciary duties
23 you owed as an officer or director?

24 A. Yeah, I was advised as to my
25 fiduciary responsibilities by counsel.

1 THOMAS MARANO

2 Q. And when was that?

3 A. Periodically over the years as I
4 have worked for Residential Capital.

5 Q. Okay. Has Morrison & Foerster
6 ever advised you as to your fiduciary
7 duties, and let me limit that in time in
8 the time, from the time they came up onto
9 the scene up until the filing of the
10 bankruptcy?

11 MR. PRINCI: What -- what's the
12 significance of whether Morrison &
13 Foerster has advised him. He told you
14 he's been advised by counsel. Why
15 does it make a difference what law
16 firm did or didn't advise him on that?

17 Q. Can you answer the question?

18 MR. PRINCI: Don't answer it.

19 You have to answer my question
20 first.

21 MR. SHORE: You are going to
22 instruct him not to answer?

23 MR. PRINCI: I'm going to have
24 to know how that question and the
25 answer you are seeking to elicit falls

1 THOMAS MARANO

2 advised as to your fiduciary duties in the
3 context of a potential insolvency?

4 A. Yes.

5 Q. And when was that? In relation
6 to the ResCap fund.

7 A. Within the past year or so.

8 Q. Drawing your attention to the
9 May 9th board meeting, which is 9019
10 Exhibit 61. You can look at the minutes
11 if you want.

12 A. You said 61, right?

13 Q. 61, yes. I'm not asking you for
14 your legal advice but rather your state of
15 mind as an officer of ResCap LLC. What
16 was the understanding of your fiduciary
17 duties at the time of this meeting?

18 A. At this point in time my
19 fiduciary obligations were to the
20 creditors of ResCap.

21 Q. And when you say ResCap, do you
22 mean ResCap LLC?

23 A. ResCap and its subsidiaries.

24 Q. Did you understand that you owed
25 a fiduciary duty to Ally?

1 THOMAS MARANO

2 A. At this point in time I believe
3 my obligations to Ally were not there.

4 Q. And what's your basis for
5 understanding that you, as an officer and
6 director of ResCap LLC, owed fiduciary
7 duties to creditors' entities other than
8 ResCap LLC?

9 A. My understanding was that I was
10 responsible for the ResCap legal entity
11 and all of its subsidiaries. And so that
12 would have included RFC and GMAC. And
13 again, I felt at this point in time I
14 really had no obligation to Ally
15 whatsoever.

16 Q. And if there were a conflict
17 between what would benefit creditors of
18 ResCap LLC versus what would benefit
19 creditors of RFC, what was your
20 understanding as to how you were to
21 resolve that conflict?

22 A. Well, I feel like the deals we
23 struck were for everybody. And all of us,
24 not only ResCap, but all of its
25 subsidiaries got the same deal. So I was

1 THOMAS MARANO

2 focused on getting the same deal for
3 everybody.

4 Q. Okay. Can you answer my
5 question. And maybe you just did. But
6 just to make clear, what was your
7 understanding of what you were supposed to
8 do in the event of a conflict between what
9 would benefit creditors of ResCap LLC
10 versus what would benefit creditors, for
11 example, of RFC?

12 A. I -- I never thought about it in
13 the context of a conflict.

14 Q. Did you understand at the time
15 of the May 9th board meeting that there
16 were certain structures that might benefit
17 one group of creditors over another group
18 of creditors?

19 MR. PRINCI: Objection.

20 References facts not in evidence but
21 you can answer if you understand the
22 question.

23 A. I'm not sure I do follow.

24 Q. Okay. At the time of the
25 May 9th board meeting did you understand

1 THOMAS MARANO

2 that ResCap LLC was committing itself to
3 pay anything in connection with the
4 proposed settlement?

5 MR. PRINCI: Objection as to
6 form.

7 A. What -- with respect to the
8 settlement what I recall is trying to get
9 a global -- essentially buy global peace
10 for all the entities. How any allocation
11 of monies would be, you know, chopped up,
12 I was not thinking about that.

13 Q. At the time of the May 9th board
14 meeting did you understand that there was
15 even an assertion that ResCap LLC was a
16 potential, owed a potential claim to any
17 of the settling funds?

18 A. I'm not sure I thought about it
19 in that context.

20 Q. And so when the number was
21 reached, 8.7 billion, was it your
22 understanding that that 8.7 billion could
23 be asserted against every entity within
24 the ResCap enterprise?

25 A. I believe that could have. I

1 THOMAS MARANO

2 wasn't really focused on it, you know,
3 other than to get everybody the same deal.

4 Q. So getting back to this conflict
5 point. Do you understand that as between
6 ResCap LLC and Residential Funding
7 Company, LLC, there might be a
8 disagreement between those two entities as
9 to who was the proper party to pay the
10 claim?

11 A. Today or back then?

12 Q. Back then.

13 A. Again, I don't recall thinking
14 about it at the time.

15 Q. Okay. Who made the decision to
16 enter into the settlement on behalf of
17 Residential Funding Company, LLC?

18 A. That would have been the
19 directors of that entity.

20 Q. And how was that effectuated?

21 A. You'd have to talk to those
22 directors.

23 Q. And who were those directors?

24 A. I believe you've got Steve Abreu
25 and -- and Jim Whitlinger,

1 THOMAS MARANO

2 W-h-i-t-l-i-n-g-e-r.

3 Q. And who acted on behalf of GMAC
4 Mortgage, LLC?

5 A. I believe that was Steve Abreu
6 and Joe Pensabene, P-e-n-s-a-b-e-n-e.

7 Q. And did you understand in
8 connection with the May 9th board meeting
9 that you were acting at all on behalf of
10 Residential Funding Company, LLC in a
11 legal capacity?

12 MR. PRINCI: Objection. Calls
13 for an expert opinion.

14 If you understand the question,
15 you can answer it.

16 A. I'm not really sure what you
17 mean by a legal capacity. I mean from a
18 fiduciary point of view I was trying to
19 settle for everybody, get the biggest deal
20 for the family. How the mechanics of that
21 worked out I was not, you know, worried
22 about that detail.

23 Q. I don't know if it has been
24 marked. I apologize. Let's mark this as
25 9019-62.

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(9019 Exhibit 62, minutes of an
April 13, 2012 board meeting, Bates
9019_54008 through 54022, marked for
identification, as of this date.)

Q. There's one extra one on the
bottom, I think.

A. No.

Q. No. Here it is, sorry. It's
Bates numbers of 9019-62 run from
9019_54008 through 54022.

And have you seen that document
before?

A. I'm familiar with this agreement
or these minutes, I'm sorry.

Q. Do you recall being in
attendance at a board meeting on April 13,
2012?

A. Yes.

Q. As between the board meeting on
April 13th and the board meeting on
May 9th, do you recall when it was
determined that the ResCap entities would
agree to an \$8.7 billion claim?

A. I believe the ResCap entities

1 THOMAS MARANO

2 MS. PATRICK: Objection to form.

3 A. No, I never thought about that.

4 Q. And I asked before about
5 considering the \$8.7 billion in formal
6 meetings. Has there been any informal
7 discussions within the ResCap enterprise
8 since the May 9th meeting as to agreeing
9 on a different number than 8.7 billion?

10 A. I don't recall any, no.

11 Q. As you sit here today, do you
12 have any basis for believing that ResCap
13 LLC is indebted in the amount of
14 \$8.7 billion to the settling parties?

15 A. Until this is approved I don't
16 think we technically are. I'd have to --
17 I'd have to defer to an expert on that.

18 Q. All right. And as you sit here
19 today, do you have any basis for believing
20 that ResCap LLC should be held liable to
21 the settling parties for an \$8.7 billion
22 claim?

23 MS. PATRICK: Objection, form.

24 MR. PRINCI: Object. It calls
25 for a legal conclusion.

1 THOMAS MARANO

2 A. Yeah. I'd have to get an
3 expert.

4 Q. So independent any legal counsel
5 you -- legal advice you don't have any
6 view?

7 A. No.

8 RQ MR. SHORE: Let me ask because I
9 don't know that we have seen
10 them, can we get copies of any minutes
11 or resolutions for both the
12 Residential Funding Company, LLC
13 entity and the GMAC Mortgage, LLC
14 entity in relation to the entry into
15 the settlement agreement. But then,
16 in addition, to the extent any other
17 entity within the ResCap group as
18 defined by the witness has either
19 minutes or resolutions or shareholder
20 consents or other formal documentation
21 with respect to that we'd like to get
22 that as well.

23 MR. PRINCI: I'm not going to
24 engage in discovery requests at a
25 deposition but you can proceed with

1 THOMAS MARANO

2 respect to requests for documents you
3 believe are appropriate.

4 MR. SHORE: Thank you.

5 Q. Were you present at any
6 post-petition board meeting to discuss an
7 amendment to the settlement agreement or
8 any amendments to the settlement
9 agreement?

10 A. Yeah, I was at one. There was
11 one time where the agreement came in --
12 there was one board meeting where we
13 talked about an amendment to the
14 agreement.

15 Q. Okay. And then independent of
16 that one board meeting, that aside, has
17 there been any other post petition board
18 meeting at any ResCap entities as far as
19 you know to discuss the settlement
20 agreement?

21 A. Not that I'm aware of.

22 Q. So what do you recall about the
23 meeting with respect to the amendment?

24 A. There -- there were actually a
25 couple of attempts to amend the agreement

1 THOMAS MARANO

2 in an effort to deal with some complaints
3 between some of the various bondholders.
4 And in the end there was sort of a
5 technical agreement to eliminate a release
6 from one legal entity and to adjust the
7 allocation. I'm not sure if the
8 allocation was completely eliminated or
9 not but there was a discussion about it.
10 And the change was material enough
11 including the release that -- that we made
12 a decision that we needed to go to the
13 board.

14 Q. And that went to the board?

15 A. Yes.

16 Q. Again, because I'm going to ask
17 for legal advice let me just ask you to
18 answer yes or no to this. Actually, let
19 me step back.

20 In connection with acting as an
21 officer and director of a corporate entity
22 within a family do you understand that at
23 certain times certain legal entities may
24 be the actual party on the hook with
25 respect to a claim even though they are

1 THOMAS MARANO

2 part of another enterprise?

3 MR. PRINCI: Objection as to

4 form.

5 Q. Or a larger enterprise?

6 MR. PRINCI: Objection as to

7 form.

8 A. The answer is yes.

9 Q. So for example if one of your
10 subsidiaries entered into a contract, that
11 subsidiary might be liable on the contract
12 and that wouldn't necessarily make the
13 rest of the entities within the enterprise
14 liable on that claim, right?

15 MR. PRINCI: Objection. Calls

16 for a legal conclusion.

17 But you can answer if you
18 understand the question.

19 A. Yeah, I mean, I would -- I would
20 get a lawyer to look at it because I would
21 assume whoever signed the contract may
22 want to go back up to the parent.

23 Q. Right. And in connection, this
24 is the yes or no question, in connection
25 with the entry into the settlement

1 THOMAS MARANO

2 agreement did you ever go to the lawyers
3 and ask them to tell you who within the
4 organization was liable on the -- liable
5 for the settlement?

6 DI MR. PRINCI: I'm going to direct
7 the witness not to the answer the
8 question on the grounds it calls for
9 communications with counsel.

10 Q. Can you answer that question yes
11 or no?

12 MR. PRINCI: I'm going to direct
13 you not to answer the question on the
14 grounds that it calls for a
15 communication with counsel.

16 Q. Are you going to follow your
17 counsel's advice?

18 A. I'm going to follow his advice.

19 MR. SHORE: And the basis for
20 that, just so we are clear on the
21 record?

22 MR. PRINCI: Attorney-client
23 privilege.

24 MR. SHORE: And for which entity
25 are you asserting that?